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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JANET GARCIA, GLADYS  
ZEPEDA, MIRIAM ZAMORA, ALI  
EL-BEY, PETER DIOCSON JR,  
MARQUIS ASHLEY, JAMES  
HAUGABROOK, individuals,  
KTOWN FOR ALL, an  
unincorporated association;  
ASSOCIATION FOR  
RESPONSIBLE AND EQUITABLE  
PUBLIC SPENDING, an  
unincorporated association,

Plaintiffs,

v.

CITY OF LOS ANGELES, a  
municipal entity; DOES 1-7,

Defendants.

CASE NO. 2:19-cv-06182-DSF-PLA  
*Assigned to: Hon. Dale S. Fischer*

**PLAINTIFFS' STATEMENT  
REGARDING THE EFFECT OF  
THE SECOND AMENDED  
COMPLAINT ON THE MOTION  
FOR PRELIMINARY  
INJUNCTION**

Judge: Hon. Dale S. Fischer  
Hearing Date: April 6, 2020  
Time: 1:30 p.m.  
Courtroom: 7D

Complaint Filed Date: July 18, 2019

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**PLAINTIFFS' STATEMENT REGARDING THE EFFECT OF THE SECOND**  
**AMENDED COMPLAINT ON THE MOTION FOR PRELIMINARY**  
**INJUNCTION**

In response to the Court's March 13, 2020 Order (Dkt. 44), Plaintiffs submit this brief to inform the Court that the Second Amended Complaint, filed by Plaintiffs on March 12, 2020 (Dkt. 43) (the "SAC"), has no impact on Plaintiffs' pending motion for preliminary injunction, filed by Plaintiffs Ktown for All ("KFA"), Peter Diocson Jr. and Marquis Ashley on February 26, 2020 (Dkt. 38) (the "Motion").

The Court granted Plaintiffs leave to amend their complaint in its Order granting in part and denying in part Defendant City of Los Angeles's (the "City") motion to dismiss pursuant to Rule 12(b)(1), which sought to dismiss the organizational plaintiffs—KFA and the Association for Responsible and Equitable Public Spending ("AREPS")—for lack of standing. *See* Order Granting in Part and Denying in Part Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction, ("Order"), Dkt. 37, at 18. The Court ruled that KFA had direct standing based on allegations that the organization had suffered diversion of resources and frustration of mission, as alleged in the complaint. *See id.* at 11. The Court granted Plaintiffs leave to amend to clarify which claims and remedies KFA was bringing on behalf of its members. *Id.* at 15, 18.

Plaintiffs filed a Second Amended Complaint ("SAC") on March 12, 2020. *See* Dkt. 43. In the SAC, Plaintiffs accordingly amended the causes of action to clarify that KFA was seeking only injunctive and declaratory relief and not damages for its members. KFA further clarified that it was not bringing the claim under California Civil Code 2080 on behalf of its members. *See* SAC at p. 50-60.

Plaintiff KFA's limited amendments in the SAC have no impact on Plaintiffs' motion for Preliminary Injunction. In general, filing an amended complaint does not affect a motion for preliminary injunction. *See Choudhry v. Regents of the Univ. of California*, No. 16-CV-05281-RS, 2016 WL 6611067, at \*2 & n.1 (N.D. Cal. Nov. 9,

2016) (ruling on a preliminary injunction despite the filing of an intervening amended complaint); *Save Strawberry Canyon v. Dep't of Energy*, 613 F. Supp. 2d 1177, 1191 (N.D. Cal. 2009), *adhered to*, No. C 08-03494 WHA, 2009 WL 1098888 (N.D. Cal. Apr. 22, 2009) (ruling on a motion for preliminary injunction, filed January 20, 2009 (Dkt. 46) even though there was an amended complaint (Dkt. 73)).

Here, Plaintiffs made only minor changes to the SAC to address the Court's ruling on KFA's associational standing. None of the amendments have any impact on the allegations relevant to the Preliminary Injunction. First, the clarification had no impact on Ktown for All's direct standing, based on diversion of resources and frustration of mission, and it was on this basis that KFA filed the motion for preliminary injunction. Second, the clarification has no impact on Plaintiffs' request for prospective relief, since in the SAC, KFA made changes only to clarify it was not seeking damages for its members. These clarifications did not impact the existing claims for injunctive relief.<sup>1</sup>

KFA clarifying that it has an *alternative* basis to establish standing in this case beyond the organizational standing the Court has already found has no impact on the Motion. All that is required at the preliminary injunction phase is an "organizational affirmation[] of harm." *E.g., Valle del Sol v. Whiting*, 732 F.3d 1006, 1018, 1029 (9th Cir. 2013) (granting preliminary injunction and holding that future diversion of resources, and not specific amounts past resources diverted, is the standard for prospective relief). The Court found that KFA has organizational standing (*see* Dkt. 37 at 6-11); the Court need not make any additional findings or inquiry.

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<sup>1</sup> Not only was the complaint already sufficient for organizational standing, as this court found, Plaintiffs presented evidence, as noted in the reply, that unhoused members move due to sweeps: both state of mind evidence, *Wagner v. Cty. of Maricopa*, 747 F.3d 1048, 1053 (9th Cir. 2013), and evidence that members have moved after sweeps, *Soranno's Gasco, Inc. v. Morgan*, 874 F.2d 1310, 1316 (9th Cir. 1989) (jury can infer the intent behind an event from its timing). Plaintiffs also explained how movement of unhoused members due to sweeps impacts Plaintiffs' ability to fulfill their mission of connecting housed and unhoused neighbors.

1 The only other amendments made to the SAC were allegations regarding the  
 2 harm to AREPS from additional expenditures which are not relevant to the Motion.  
 3 AREPS did not move for a preliminary injunction and thus the additional allegations  
 4 concerning AREPS will not affect the preliminary injunction.

5 Finally, Plaintiffs did not make any amendments in the SAC related to standing  
 6 for the two other Plaintiffs who filed the Motion, Diocson and Ashley.

7 In sum, although Plaintiffs amended the complaint to bolster the standing of the  
 8 two organizational Plaintiffs, that amendment has no impact on Plaintiffs KFA,  
 9 Dioscon, and Ashley's pending motion for preliminary injunction.

10  
 11 Dated: March 25, 2020

Respectfully submitted,

12 LEGAL AID FOUNDATION OF LOS ANGELES

13 /s/ Shayla Myers

14 Shayla Myers

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 26 *Peter Diocson Jr., Marquis Ashley, Ali El-Bey, and*  
 27 *Association for Responsible and Equitable Public*  
 28 *Spending.*

**LOCAL RULE 5-4.3.4 ATTESTATION**

I attest that Plaintiff's counsel, Shayla Myers and Catherine Sweetser, concurs in this filing's content and has authorized the filing.

DATED: March 25, 2020

KIRKLAND & ELLIS LLP

By: /s/ Benjamin Herbert

Benjamin Allen Herbert

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